REMARKS/ARGUMENTS

The Office has identified the following groups and is requiring restriction to one of the same:

Group I: Claims 1-4, drawn to a wax composition.

Group II: Claim 5, drawn to a laminate.

Group III: Claims 6-17, drawn to process of producing a wax composition.

Applicants elect, with traverse, **Group III**, Claims 6-17, for examination.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Office if restriction is not required (MPEP §803). The burden is on the Office to provide reasons and/or examples to support any conclusion in regard to patentable distinction (MPEP §803). Moreover, when citing lack of unity of invention in a national stage application, the Office has the burden of explaining why each group lacks unity with the others (MPEP § 1893.03(d)), i.e. why a single general inventive concept is nonexistent. The lack of a single inventive concept must be specifically described.

The Office alleges that Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for various reasons, and cites MPEP § 806.05(j) to support this allegation. In addition, the Office alleges that Groups I and III do not relate to a single general inventive concept for various reasons, and cites MPEP § 806.05(f) to support this allegation. See pages 2-3 of the Restriction Requirement mailed October 8, 2009.

⇨ However, Applicants' representative respectfully reminds the Office that the present application is the national stage of International Application No. PCT/JP04/014658. Restriction practice under U.S. rules (*i.e.* MPEP § 806) cannot be used to support an allegation of a lack of unity of invention between the claims of the various groups, because:

> Therefore, when the Office considers international applications as an International Searching Authority, as an International Preliminary Examining Authority, and during the national stage as a Designated or Elected Office under 35 U.S.C. 371, PCT Rule 13.1 and 13.2 will be followed when considering unity of invention of claims of different categories ***without regard to the practice in national applications filed under 35 U.S.C. 111.***

See MPEP § 1850, emphasis added.

For the reasons given above, the Office has not met the burden for showing that the groups lack unity of invention.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully Submitted,

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